

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	CIVIL ACTION
v.	*	NO. 19-CV-13763
ATTENTIVE HOSPICE METAIRIE, LLC	*	JUDGE
	*	MAG.

COMPLAINT

NOW INTO COURT, through the undersigned Assistant United States Attorney, comes plaintiff, the United States of America, and respectfully submits its complaint against defendant, Attentive Hospice Metairie, LLC, and hereby alleges the following.

Parties, Jurisdiction, and Venue

1.

Plaintiff is the United States of America proceeding in its sovereign capacity.

2.

Defendant is Attentive Hospice Metairie, LLC, a Louisiana limited liability company domiciled at 124 Commerce Street, Hammond Louisiana 70403 in the Parish of Tangipahoa.

3.

Jurisdiction is proper under 28 U.S.C. § 1345, 42 U.S.C. § 1395y(b), and 42 C.F.R. §§ 411.20, *et seq.*

4.

Venue is proper in this judicial district under 28 U.S.C. § 1391(b) since defendant is domiciled in this judicial district.

Facts

5.

Defendant, Attentive Hospice Metairie, LLC, received Medicare benefits for hospice patients that resulted in overpayments and being in excess of the annual cap.

6.

Under federal law, Attentive Hospice Metairie, LLC is responsible for the Medicare benefits received in excess of the annual cap and medical service for a beneficiary. 42 U.S.C. § 418.309; 42 U.S.C. § 405, *et seq.*

7.

The United States, acting through the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), disbursed Medicare hospice funds to Attentive Hospice Metairie, LLC for inpatient days (general and respite) for Medicare patients for the year 2015. *See* Exhibit 1 (COI - 1). After a completed review, CMS determined that Medicare hospice funds exceeded the annual cap resulting in a Medicare benefits overpayment for the year ending October 31, 2015.

8.

On September 15, 2016, CMS sent a demand letter to Attentive Hospice Metairie, LLC requesting repayment for the overpayment of Medicare funds for the hospice annual cap. CMS advised that simple interest at the rate of 9.625% would accrue on the unpaid balance of the overpayment beginning on the 31st day. Interest is calculated in 30-day periods and is assessed for each full 30-day period that payment is not made on time. Attentive Hospice Metairie, LLC failed to make payment and owes \$76,379.08 in principal and \$20,711.65 in interest up to October 4, 2019. *Id.* Interest continues to accrue at 9.625% until the date of final judgment. *Id.*

9.

Further, CMS also overpaid Medicare hospice benefits on behalf of one beneficiary between January and April 2016. *See* Exhibit 2 (COI - 2). This payment was made in error due to Attentive Hospice Metairie, LLC not following correct Medicare filing procedures.

10.

On September 7, 2017, CMS sent a demand letter to Attentive Hospice Metairie, LLC requesting repayment of the Medicare payment made in error. CMS advised that, if payment was not made in full in 30 days from the date of the letter, simple interest at the rate of 10.125% would accrue on the unpaid balance of the overpayment beginning on the 31st day. Interest is calculated in 30-day periods and is assessed for each full 30-day that payment is not made on time. Attentive Hospice Metairie, LLC failed to make payment and owes \$9,320.09 in principal and \$1,882.57 in interest up to October 4, 2019. *Id.* Interest continues to accrue at 10.125% until the date of final judgment. *Id.*

11.

Further, CMS overpaid Medicare hospice benefits on behalf of one beneficiary between December 2015 and February 2016. *See* Exhibit 3 (COI – 3). These payments were made in error due to Attentive Hospice Metairie, LLC not following correct Medicare filing procedures.

12.

On September 20, 2017, CMS sent a demand letter to Attentive Hospice Metairie, LLC requesting repayment of the Medicare payment made in error. CMS advised that, if payment not made in full in 30 days from the date of the letter, simple interest at the rate of 10.125% would

accrue on the unpaid balance of the overpayment. Attentive Hospice Metairie, LLC failed to make payment and owes \$10,290.16 in principal and \$2,058.52 in interest up to October 4, 2019.

Id. Interest continues to accrue at 10.125% until the date of final judgment. *Id.*

13.

Further, CMS disbursed Medicare hospice funds to Attentive Hospice Metairie, LLC for inpatient days (general and respite) for Medicare patients for the year 2015. *See* Exhibit 4 (COI – 4). After a revised review, CMS determined that Attentive Hospice Metairie, LLC owed an additional amount to the overpayment of Medicare benefits for the year ending October 31, 2015.

14.

On September 26, 2017, CMS sent a demand letter to Attentive Hospice Metairie, LLC requesting repayment for the additional overpayment amount of Medicare funds for the hospice cap. CMS advised that simple interest at the rate of 10.125% would accrue on the unpaid balance of the overpayment beginning on the 31st day. Interest is calculated in 30-day periods and is assessed for each full 30-day period that payment is not made on time. Attentive Hospice Metairie, LLC failed to make payment and owes \$41,861.00 in principal and \$7,429.99 in interest up to October 4, 2019. *Id.* Interest continues to accrue at 10.125% until date of judgment. *Id.*

Cause of Action

15.

As the responsible party for hospice care, Attentive Metairie Hospice, LLC has a duty to reimburse the United States for the overpaid Medicare hospice funds.

16.

As set forth in Exhibit 1 (COI – 1), Attentive Hospice Metairie, LLC is indebted to the United States in the total amount of \$97,090.73, which sum includes: \$76,379.08 in principal, plus interest accrued through October 4, 2019 in the amount of \$20,711.65. Interest continues to accrue on the principal amount at the rate of 9.62% per 30-day period.

17.

As set forth in Exhibit 2 (COI – 2), Attentive Hospice Metairie, LLC is indebted to the United States in the total amount of \$11,202.66, which sum includes: \$9,320.09 in principal, plus interest accrued through October 4, 2019 in the amount of \$1,882.57. Interest continues to accrue on the principal amount at the rate of 10.13% per 30-day period.

18

As set forth in Exhibit 3 (COI – 3), Attentive Hospice Metairie, LLC is indebted to the United States in the total amount of \$12,348.68, which sum includes: \$10,290.16 in principal, plus interest accrued through October 4, 2019 in the amount of \$2,058.52. Interest continues to accrue on the principal amount at the rate of 10.13% per 30-day period.

19.

As set forth in Exhibit 4 (COI – 4), Attentive Hospice Metairie, LLC is indebted to the United States in the total amount of \$49,290.99, which sum includes: \$41,861.00 in principal, plus interest accrued through October 4, 2019 in the amount of \$7,429.99. Interest continues to accrue on the principal amount at the rate of 10.13% per 30-day period.

WHEREFORE, the United States prays that its complaint be deemed good and sufficient and that, after due proceedings, that there be judgment in its favor and against Attentive Hospice Metairie, LLC awarding:

- 1) the amount of \$169,933.06, plus interest from October 4, 2019 to the date of judgment;
- 2) the costs of these proceedings;
- 2) post-judgment interest; and
- 3) any further relief the Court deems proper.

Respectfully submitted,

PETER G. STRASSER
UNITED STATES ATTORNEY

s/ Brock D. Dupre

BROCK D. DUPRE
Assistant United States Attorney
LA Bar Roll No. 28563
U.S. Attorney's Office (E.D. La.)
650 Poydras Street, Suite 1600
New Orleans, Louisiana 70130-7212
Telephone: (504) 680-3000
Email: Brock.Dupre@usdoj.gov

United States will send request for waiver of service to:

ATTENTIVE HOSPICE METAIRIE, LLC
Through its registered agent and Manager
John V. Barton
124 Commerce Street
Hammond, LA 70403

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
AUSA Brock D. Dupre (#28563), U.S. Attorney's Office
650 Poydras St., Ste. 1600, New Orleans, LA 70130
Tel: (504) 680-3005

DEFENDANTS

ATTENTIVE HOSPICE METAIRIE, L.L.C.

County of Residence of First Listed Defendant Tangipahoa
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input checked="" type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify) _____
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S. Code § 3001

Brief description of cause:

Recovery of debt owed to the United States

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
 DEMAND \$ _____

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

10/04/2019

s/ Brock D. Dupre

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____



**DEPARTMENT OF THE TREASURY
BUREAU OF THE FISCAL SERVICE
WASHINGTON, DC 20227**

**ACTING ON BEHALF OF
U.S. Department of Health and Human Services,
Centers for Medicare and Medicaid Services
CERTIFICATE OF INDEBTEDNESS**

**Debtor Name(s) and
Address(es):**

**Attentive Hospice Metairie, L.L.C.
124 Commerce Street
Hammond, LA 70403**

Treasury Claim # TRFM5620449

Total debt due United States as of October 4, 2019:

Principal: \$76,379.08

Interest (@9.62%): \$20,711.65

TOTAL: \$97,090.73

The claim arose in connection with debtor's September 2016 failure to repay a Medicare benefits overpayment owed to the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), which stemmed from a CMS determination that disbursed Medicare hospice funds had exceeded the annual cap, established at 42 U.S.C. 418.309, for the year ended October 31, 2015.

CERTIFICATION: Pursuant to 28 USC ss. 1746, I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief based upon information provided by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Date:

10/4/2019

A handwritten signature in black ink, appearing to read "Regina Crisafulli", written over a horizontal line.

**Regina Crisafulli
Financial Program Specialist
U.S. Department of the Treasury
Bureau of the Fiscal Service**





DEPARTMENT OF THE TREASURY
BUREAU OF THE FISCAL SERVICE
WASHINGTON, DC 20227

ACTING ON BEHALF OF
U.S. Department of Health and Human Services,
Centers for Medicare and Medicaid Services
CERTIFICATE OF INDEBTEDNESS

Debtor Name(s) and
Address(es):

Attentive Hospice Metairie, L.L.C.
124 Commerce Street
Hammond, LA 70403

Treasury Claim # TRFM7297731

Total debt due United States as of October 4, 2019:

Principal: \$9,320.09
Interest (@10.13%): \$1,882.57
TOTAL: \$11,202.66

The claim arose in connection with debtor's September 2017 failure to repay a Medicare benefits overpayment owed to the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), which stemmed from a CMS determination that disbursed Medicare hospice benefits disbursed on behalf of one beneficiary between January and April 2016 were in excess of standards set by 42 U.S.C. 405, et seq..

CERTIFICATION: Pursuant to 28 USC ss. 1746, I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief based upon information provided by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Date: 10/4/2019

Regina Crisafulli
Financial Program Specialist
U.S. Department of the Treasury
Bureau of the Fiscal Service





**DEPARTMENT OF THE TREASURY
BUREAU OF THE FISCAL SERVICE
WASHINGTON, DC 20227**

**ACTING ON BEHALF OF
U.S. Department of Health and Human Services,
Centers for Medicare and Medicaid Services
CERTIFICATE OF INDEBTEDNESS**

**Debtor Name(s) and
Address(es):**

**Attentive Hospice Metairie, L.L.C.
124 Commerce Street
Hammond, LA 70403**

Treasury Claim # TRFM7297895

Total debt due United States as of October 4, 2019:

**Principal: \$10,290.16
Interest (@10.13%): \$ 2,058.52
TOTAL: \$12,348.68**

The claim arose in connection with debtor's September 2017 failure to repay a Medicare benefits overpayment owed to the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), which stemmed from a CMS determination that disbursed Medicare hospice benefits disbursed on behalf of one beneficiary between December 2015 and February 2016 were in excess of standards set by 42 U.S.C. 405, et seq..

CERTIFICATION: Pursuant to 28 USC ss. 1746, I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief based upon information provided by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Date:

10/14/2019

**Regina Crisafulli
Financial Program Specialist
U.S. Department of the Treasury
Bureau of the Fiscal Service**





DEPARTMENT OF THE TREASURY
BUREAU OF THE FISCAL SERVICE
WASHINGTON, DC 20227

ACTING ON BEHALF OF
U.S. Department of Health and Human Services,
Centers for Medicare and Medicaid Services
CERTIFICATE OF INDEBTEDNESS

Debtor Name(s) and
Address(es):

Attentive Hospice Metairie, L.L.C
124 Commerce Street
Hammond, LA 70403

Treasury Claim # TRFM7421849

Total debt due United States as of October 4, 2019:

Principal: \$41,861.00

Interest (@10.13%): \$ 7,429.99

TOTAL: \$49,290.99

The claim arose in connection with debtor's September 2017 failure to repay a Medicare benefits overpayment owed to the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), which stemmed from a CMS determination that disbursed Medicare hospice benefits had exceeded the annual cap, established at 42 U.S.C. 418.309.

CERTIFICATION: Pursuant to 28 USC ss. 1746, I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief based upon information provided by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Date: 10/4/2019

Regina Crisafulli
Financial Program Specialist
U.S. Department of the Treasury
Bureau of the Fiscal Service

